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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Note verbale dated 13 February 2001 from the Permanent Mission of Iraq to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Republic of Iraq to the United Nations Office and Other International Organizations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit to it herewith the letter* from the Permanent Representative of Iraq to the United Nations Office at Geneva in response to the letter dated 15 August 2000 from the permanent representatives of the United Kingdom of Great Britain and Northern Ireland and the United States of America addressed to the Chairperson of the fifty-second session of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2000/45).

The Permanent Mission of the Republic of Iraq would be grateful if the Office of the High Commissioner for Human Rights could arrange to have this reply distributed as an official document of the fifty-seventh session of the Commission on Human Rights, under its agenda item 9 entitled "Question of the violation of human rights and fundamental freedoms in any part of the world".

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* The annex is reproduced as received, in the language of submission and in English.

Annex

Letter from the Permanent Representative of Iraq to the United Nations Office at Geneva in response to the letter from the representatives of the United States of America and the United Kingdom addressed to the Chairperson of the fifty-second session of the Sub-Commission on the Promotion and Protection of Human Rights and contained in document E/CN.4/Sub.2/2000/45 of 17 August 2000

The Permanent Representative of Iraq, having studied the joint aide-mémoire from the representatives of the United States of America and the United Kingdom addressed to the Chairperson of the fifty-second session of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2000/45 of 17 August 2000), wishes to make the following comments on the allegations and deliberate fallacies contained therein:

1. The aide-mémoire alleged that the United States Administration and the British Government had taken the lead in efforts to help the Iraqi people, as exemplified by their endeavours to secure the adoption of Security Council resolution 1284.

In this connection, we wish to point out that resolution 1284 was not only a blatant attempt by the United States of America and the United Kingdom to rewrite the Security Council resolutions relating to Iraq, and particularly resolution 687, it was also an attempt to disavow the Security Council's corresponding obligation to lift the embargo from Iraq, without imposing further conditions, in the light of Iraq's fulfilment of its obligations under the relevant Security Council resolutions. Since Iraq has honoured its obligations, the Security Council should lift the sanctions instead of adopting further resolutions containing new conditions with a view to returning to square one. The true purpose of the United States of America and the United Kingdom in promoting that resolution was not to secure the lifting of the embargo but solely to deceive international public opinion, since the suspension of sanctions to which reference was made therein was subject to a long and complex series of new and ambiguous conditions which were open to various interpretations. As a result, that deplorable resolution gave no guarantee that sanctions would be suspended and, moreover, the time frames mentioned therein were artificially and excessively long.

The strict and ambiguous conditions that have been imposed in order to block contracts are new conditions that were not mentioned in the previous resolutions. They were introduced in order to render any potential suspension of sanctions meaningless and, consequently, ineffective. In fact, that resolution arbitrarily restricted Iraq's sovereignty over its economy and its resources in a manner that was totally incompatible with the relevant international instruments.

It is noteworthy that the aide-mémoire from the representatives of the United States of America and the United Kingdom distorted and falsified the facts. While acknowledging that the embargo had affected the lives of the Iraqi people, they claimed to be eager to relieve the people's suffering. With regard to that suffering, however, when Madeleine Albright, the former US Secretary of State, was asked during a television interview on the "Sixty Minutes" programme in 1997 whether the United States actions justified the deaths of half a million Iraqi children, she replied that "we think the price is worth it". This was a clear admission of the determination with which the United States Administration, abetted by the United Kingdom, has been conducting a relentless campaign against the Iraqi people through the policy of embargo and ongoing military aggression that it has been pursuing since 1990.

2. According to the aide-mémoire, there was no limit on the amount of food and medicine that Iraq could import to meet its needs. In the face of this arrogant assertion, we feel obliged to draw attention to the fact that the implementation of the various phases of the Memorandum of Understanding signed between Iraq and the Secretary-General of the United Nations shows that the United States of America and the United Kingdom have persistently obstructed the proper application of the Memorandum by abusing their membership of the 661 Committee in order to block more than 1,000 contracts during the eight phases of the Memorandum. In fact, their representatives are deliberately blocking contracts for humanitarian supplies, particularly in sectors that have a direct impact on the lives of citizens. For example, they have blocked 201 contracts for essential foodstuffs, 93 contracts in the education sector, 168 in the agricultural sector, 102 in the water and sewage sector and 147 in the pharmaceutical and medical requisites sector, in addition to other contracts. The proportion of implemented contracts is as follows: 63 per cent in the trade sector, 41 per cent in the health sector, 15 per cent in the electricity sector, 6.2 per cent in the water and sewage sector in all Iraq's governorates with the exception of Baghdad, and 4.2 per cent in the communications sector. In view of this procrastination in the implementation of the Memorandum of Understanding, in his report dated 8 September 2000

(S/2000/85) and his letter of 3 October 2000 addressed to the President of the Security Council (S/2000/950), the Secretary-General of the United Nations expressed his grave concern at the increasing number of contracts placed on hold.

The placing of these contracts on hold prevents the people of Iraq from benefiting from the humanitarian supplies forming the subject of those contracts. In many cases, it also prevents them from benefiting from other contracts which, although approved, are linked to a contract that has been put on hold on the pretext of the dual-use or end-use of the supplies or the failure to provide adequate information thereon. This obstructionism is an illegitimate practice designed to achieve political objectives that are totally unrelated to the alleged dual-use of some supplies.

3. The assertion that the United Nations recommended that an amount from the Memorandum of Understanding be set aside for the nutrition of infants and mothers but that the Government of Iraq had refused to implement that and other programmes for the rehabilitation of malnourished children under 5 years of age totally contradicts the Secretary-General's report of 29 November 2000 (S/2000/1132) in which, on the subject of the nutrition of children under five and mothers, he "welcomed the considerable progress made in the targeted nutrition programme that provided therapy for those categories" (paras. 79-85).

4. The aide-mémoire claimed that Iraq was refusing to distribute humanitarian supplies and was impeding the work of the United Nations personnel overseeing the implementation of the programme. This is a false allegation, since all the reports of the Secretary-General of the United Nations have confirmed that the Government of Iraq is cooperating fully with the United Nations programme and the persons working thereon. Moreover, there is no indication in any of his reports to the effect that any of the imported supplies have been used for a purpose other than that for which they were imported.

5. According to the aide-mémoire, contracts are placed on hold temporarily because of concerns about dual-use of the supplies and equipment. However, in paragraph 128 of his report of 2 November 2000 (S/2000/1132), the Secretary-General expressed "serious concern over the excessive number of holds placed on applications". He also said that "despite all the commendable efforts made ... the volume of holds had risen drastically to $2.31 billion as at 31 October 2000". It is noteworthy that 1,016 contracts, amounting in value to a total of $2,728,378,591, have been placed on hold. This is unquestionably one of the principal factors

impeding implementation of the programme in the central and southern governorates and the applications concerning the electricity, water, sanitary installations and agricultural sectors that are currently on hold are adversely affecting the humanitarian situation in Iraq.

6. The aide-mémoire referred to Iraq's so-called failure to cooperate on the question of Kuwaiti missing persons. In this connection, since the establishment of the Tripartite Commission in 1994, the Government of Iraq has consistently cooperated, under the auspices of the International Committee of the Red Cross, with the bodies endeavouring to settle the question of the missing persons. At the meeting of the Tripartite Commission held in Geneva on 18 October 1996, the International Committee of the Red Cross announced that Iraq had processed 301 files. Many files on Kuwaiti and other missing persons have been closed, including, for example, the file on a female Kuwaiti citizen whom the Iraqi authorities traced in the city of Baghdad and encouraged to return to Kuwait, under the auspices of the International Committee of the Red Cross, in May 1996. On 4 March 1996, the file on a Kuwaiti citizen was closed after his remains were returned to Kuwait by the Iraqi authorities. At its meeting held in Geneva on 18 February 1997, the Tripartite Commission confirmed that a further three files on Kuwaiti missing persons had been withdrawn and closed. As a result of the tracing endeavours made, the number of files on persons whom the International Committee of the Red Cross in Iraq has been requested to trace has been reduced from 627 in 1994 to the present figure of 598. Iraq and Saudi Arabia have also succeeded in finding the remains of a Saudi pilot whose aircraft crashed in the desert inside Iraqi territory and whose remains were returned to the Saudi authorities at the end of the year 2000.

Iraq ceased attending the meetings of the Tripartite Commission after the military aggression to which it was subjected by the United States of America and the United Kingdom in December 1998. This position should in no way be interpreted as signifying Iraq's disavowal of its obligations in that connection. Iraq is willing to attend the meetings of the Tripartite Commission provided that representation thereon is confined to the States which have files on registered missing persons. It is totally unacceptable that the United States of America and the United Kingdom, which are committing daily acts of aggression against Iraq, and France should attend the meetings of that Commission since they do not have missing persons. The purpose of those two States' insistence on participating in the meetings of the Tripartite Commission is to obstruct the settlement of this issue in order to further their dubious political objectives.

7 Another point raised in the aide-mémoire concerned the so-called "no-fly zones" which the United States of America and the United Kingdom have imposed on the pretext of supporting Security Council resolution 688. The United States allegation to the effect that the creation of the so-called "no-fly zones" was a measure consistent with Security Council resolution 688 is totally unfounded, since that point of view is not substantiated by the provisions of the resolution which, moreover, was not adopted under the terms of Chapter VII of the Charter of the United Nations which is the only Chapter under which the United Nations or its proxy is permitted to use force in accordance with a specific authorization. That resolution made no provision for the imposition of any no-fly zone in Iraqi airspace. Consequently, the use of resolution 688 (1991) as a basis for the imposition of two no-fly zones is incompatible with the provisions of that resolution, since Article 2, paragraph 7, of the Charter of the United Nations stipulates that: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State". In addition, the seventh preambular paragraph of resolution 688 (1991) clearly reaffirms the obligation of all Member States to respect the sovereignty, territorial integrity and political independence of Iraq.

In short, the purpose of the measures taken by the United States of America and the United Kingdom to create so-called "safe" areas and impose no-fly zones was to violate Iraq's sovereignty and weaken its national unity in total disregard of the limits set by United Nations resolutions and the principles of international law, which prohibit interference in the internal affairs of States. As a result, northern Iraq is exposed to intervention by the United States of America and other neighbouring States, as is clearly illustrated by the stationing of United States and British forces in Turkish territory on the pretext of supervising the maintenance of the status quo in northern Iraq and by the visits that United States officials pay to the region in order to meet the Kurdish parties and prevent any rapprochement or contact between them and the Government of Iraq.

8 The allegation that the civilian population and civilian facilities are not being targeted is another lie that is refuted by the bombardment that began in 1991 and has not yet been halted. In fact, the daily bombardments to which the Iraqi people, including women and children, are being subjected by United States and British aircraft have killed 315 citizens and wounded 965, all of whom were civilians.

9. In their aide-mémoire, the representatives of the United States of America and the United Kingdom claimed that the concern which was felt in regard to the humanitarian situation in Iraq could be addressed through the "oil for food" programme.

The Government of Iraq has already highlighted cogent facts which confirm that this programme is inadequate to meet the needs of the Iraqi people and that it has not alleviated, and will never alleviate, the tremendous humanitarian suffering that has been inflicted on the people of Iraq for the last decade. The United States of America and the United Kingdom are endeavouring to transform this modest and insignificant programme from a means to alleviate the suffering of the Iraqi people, as they claim, into a means to harm our people. In paragraph 135 of his report dated 29 November 2000 (S/2000/1132), the Secretary-General of the United Nations indicated that the sanctions regime was responsible for the worsening of a humanitarian crisis and he expressed his deep regret at the continuing suffering of the Iraqi people, as well as his hope that the sanctions imposed on Iraq could be lifted sooner rather than later.

The reports of international humanitarian organizations, such as UNICEF, WHO and FAO, have also highlighted the suffering of the Iraqi people. In its report for the year 1999, UNICEF stated that children and mothers in Iraq were dying at more than double the rate prevailing 10 years earlier.

10. The report of the second panel, established pursuant to the note of 30 January 1999 by the President of the Security Council (S/1999/100), on the humanitarian situation in Iraq referred to the tragic situation brought about by the unjust embargo and stated as follows: "In marked contrast to the prevailing situation prior to the events of 1990-1991, the infant mortality rates in Iraq today are among the highest in the world, low infant birth weight affects at least 23 per cent of all births, chronic malnutrition affects every fourth child under five years of age, only 41 per cent of the population have regular access to clean water, and 83 per cent of all schools need substantial repairs". In its report for 1999, the International Committee of the Red Cross affirmed that the Iraqi health-care system was currently in a state of collapse. For its part, the United Nations Development Programme has estimated that a sum of $8 billion will be needed to rehabilitate the electricity sector.

Three officials of the United Nations programme in Iraq (Denis Halliday, Hans von Sponeck and Jutta Burghardt) have resigned because of the economic sanctions imposed on Iraq. Mr. Denis Halliday, the Assistant Secretary-General and Humanitarian

Coordinator in Iraq who resigned in 1998, declared that: "We are in the process of destroying an entire society. It is as simple and terrifying as that. It is illegal and immoral". Mr. von Sponeck, who resigned in the year 2000, said that he was no longer able to associate himself with a programme that was prolonging the sufferings of the people and could not even meet the basic needs of civilians.

In the light of these appalling consequences of the ongoing embargo on the Iraqi people and the persistent manner in which the United States Administration and the British Government are covering up or belittling the tragic impact of the embargo through the media or statements made by officials of those two countries, the Government of the Republic of Iraq regards the suffering to which the Iraqi people are being subjected as a form of genocide as defined in the relevant international human rights instruments and international humanitarian law and, therefore, calls upon the international community to establish a special international tribunal before which United States and British officials would be tried for the war crimes, crimes of genocide and crimes against humanity that are being committed against the Iraqi people.